

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

COMPANY PETITION NO. 767 OF 1997

In the matter of Companies
Act, I of 1956

AND

In the matter of M/s. Orkay
Industries Ltd. (In Liqn.)

**CALLED FOR OFFICIAL LIQUIDATOR'S REPORT DATED
16/7/2004 :**

B. Shah advocate for IDBI
Shri Vaidya, valuer present.
Apoorna Kaiwal for weavers present.
S.C. Gupta, Official Liquidator present.

CORAM: S.U. KAMDAR, J.

DATE : 14TH JANUARY, 2005.

P.C. :

1. The Official Liquidator has filed his report dated 16.7.2004 seeking permission that whether the official liquidator should hand over lease machinery claimed by IDBI as per the report of the of the valuer M/s. Vaidya and Associates and if yes whether M/s. Vaidya and Associates should be appointed as valuer for identifying the lease machineries.

2. Ms. Kaiswal, learned counsel appearing on behalf of workers of the company in liquidation is opposing the present report of the official liquidator on the ground that the said machinery does not belong to IDBI but the same belongs to the Company.

3. It is an admitted position that there is a lease document executed by the company in favour of IDBI. In respect of the said machineries IDBI have advanced loan to the company and the lease documents has been executed providing that the machineries belong to IDBI. It is now well settled by various decision of this court that once there is a lease executed by the company then the property belongs to the lessor who is IDBI in the present case and not to the company in liquidation who was holding the machineries merely as a lessee. In view thereof I do not find any substance in the contention raised by the learned counsel for the workers.

4. I therefore grant prayer clause (a) and (b)

of the report with further directions as under :

(i) IDBI is directed to remove the machinery from the premises within a period of four weeks. In the event the same is not removed within a period of four weeks then a further time of six months is granted to IDBI on the IDBI paying the rent to the Official Liquidator which is quantified at Rs.30,000/- per month.

(ii) If the said machinery is not removed within six months then the rent will be enhanced to Rs.50,000/- per month.

. Report is disposed of accordingly.

SD/-
